IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No. 168 of 2006
In
COMPANY APPLICATION No. 364 of 2006
With
COMPANY PETITION No. 169 of 2006
In
COMPANY APPLICATION No. 365 of 2006
With
COMPANY PETITION No. 170 of 2006
In
COMPANY APPLICATION No. 366 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE K.A.PUJ

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1.	Whether Reporters of Local Papers may be allowed to see the judgment ?	**YES**
2.	To be referred to the Reporter or not ?	**NO**
3.	Whether their Lordships wish to see the fair copy of the judgment ?	**NO**
4.	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?	**NO**
5.	Whether it is to be circulated to the civil judge ?	**NO**

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SARVASHAKTI SYNTHETIC LTD. - Petitioner
Versus
. - Respondent

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Appearance :
MRS SWATI SOPARKAR for Petitioner.

MR HARIN P RAVAL for Respondent.

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CORAM : HONOURABLE MR.JUSTICE K.A.PUJ

Date : 29/11/2007
COMMON ORAL JUDGMENT

1. These are the petitions filed by three petitioner Companies for sanction of a Scheme of arrangement in the nature of amalgamation of Sarvashakti Synthetics Limited and Minar Trading and Services Limited the Transferor Companies with M. S. Khurana Builders Private Limited, the Transferee Company under Section 391 read with Section 394 of the Companies Act, 1956. All the petitioner Companies belong to the same group of management.

2. All the petitioner Companies belong to the same group of management. Both the Transferor companies are closely held public limited companies. The first Transferor Company viz. Minar Trading and Services Limited is presently engaged in the investment activity. It is a profit making company. The second Transferor company viz. Sarvashakti Synthetics Limited is a closely held public limited Company. It was originally promoted to carry on the business of synthetic textiles but

subsequently shifted to and was engaged in business as contractors for civil construction. Presently, it is engaged in investment activities. Whereas the Transferee Company viz. M.S. Khurana Builders Private Limited is a private limited company and is carrying on the business as contractors for civil construction. It is a profit-making Company with future prospects for growth. Since, the Transferor and the Transferee Companies belong to the same group of management, the Board of Directors of these companies thought it fit to amalgamate them for achieving synergic advantages. The petitions give details of the advantages anticipated due to the said amalgamation.

3. Vide the common order dated 12.07.2006 passed in the Company Applications No. 364, 365 & 366 of 2006, (copies at page 36-38 of Company Petition No. 170 of 2006) meetings of the Equity Shareholders and the Unsecured Loan Creditors of the Transferor Companies were dispensed with in view of the written consent letters placed on record. There are no secured creditors and Unsecured Trade Creditors of either of the companies. Similarly, vide the same order, meeting of

the Equity Shareholders of the Transferee Company was also dispensed with in view of the written consent letters placed on record.

4. The petitions were admitted vide order dated 8th September 2006. The public notice for the same were duly advertised in the newspapers ('The Indian Express', English daily, and 'Sandesh' Gujarati Daily), both Ahmedabad editions dated 23rd September 2006 and the publication in the Government Gazette was dispensed with. Affidavit dated 13th October 2006 confirms the same. (At page 38 A in case of Company Petition No. 168 of 2006 and page 37 in case of Company Petition No. 170 of 2006). No one has come forward with any objections to the said petitions even after the publication. The same has been further confirmed by the additional affidavit dated 12th July 2007 filed by the respective Directors of the petitioner Companies. (Copy at page No. 51 in case of Company Petition No. 168 of 2006, page No. 44 in case of Company Petition No. 169 and page No. 42 in case of Company Petition No. 170 of 2006.)

5. Notice of the petition of the petitioner Transferor Companies were served upon the Official Liquidator

attached to this Court. Vide reports dated 6th September, 2007 filed by the Official Liquidator, in case of Company Petition No. 168 and 169 of 2006 annexed at pages 56 and 49 respectively, it is observed that the affairs of the Transferor Company has not been conducted in a manner prejudicial to the interest of their members or to the public interest.

6. Notice of the petitions have been served upon the Central Government and Shri Harin Raval, learned Assistant Solicitor General appears for the Central Government. An affidavit dated 6th June 2007 filed by Mr. P.L. Malik, Asst. Registrar of Companies along with the letter of the Regional Director dated 5th June 2007 whereby certain observations are made by the Regional Director. The said common affidavit is filed in Company Petition No. 168 of 2006 at page 39. The issues raised therein are dealt with by an additional affidavit dated 12th July 2007 filed by Directors of the respective petitioner Companies. The Provisional Balance Sheets of all the three petitioner Companies as on 31st March 2007 are filed. It has been further clarified that the proposed scheme does not envisage the addition of the Authorised

Capital of the Transferor Companies to the Authorized Capital of the Transferee Company. It has been reaffirmed that there are no inter company transactions of sales and service and there is no question of sales tax or service tax paid for the same. The copies of the affidavits dated 21st November 2006 submitted by the respective directors of the petitioner Companies before the Regional Director are also shown which confirms the necessary compliances.

7. I have heard Smt. Swati Soparkar, the learned advocate for the petitioner Companies. The submissions have been made by her explaining the issues raised by the office of the Regional Director. Considering the same along with the affidavits placed on record, I am satisfied that the observations made by the Registrar of Companies do not survive and the scheme of arrangement would be in the interest of the companies and their members and creditors. Prayers in terms of paragraph 15 (a) in case of all the three Company Petitions No. 168, 169 & 170 of 2006 are hereby granted.

8. The petitions are disposed of accordingly. So far as the costs to be paid to the Central Govt. Standing Counsel is concerned, I quantify the same at Rs.3,500/- per petition. The same may be paid to the learned Assistant Solicitor General Shri Harin P. Raval.

Sd/-
[K. A. PUJ, J.]

Savariya